

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-cv-837-wmc

SCOTT R. LABARGE, JR., LAC DU
FLAMBEAU BAND OF LAKE
SUPERIOR CHIPPEWA INDIANS,
and KARESSA F. THOMAS,

Defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-captioned matter having come before the Court to be heard, Honorable William M. Conley, United States District Judge for the Western District of Wisconsin, presiding without a jury, on July 31, 2019, the Plaintiff, United States of America, having appeared by its attorney, the Office of the United States Attorney for the Western District of Wisconsin, and no appearance having been made on behalf of the Defendants herein, except as may be noted on the record; the Clerk of the United States District Court for the Western District of Wisconsin having duly entered the default of Defendants Scott R. LaBarge, Jr., Lac Du Flambeau Band of Lake Superior Chippewa Indians, and Karessa F. Thomas; and the United States having filed a Notice of Application for Default and Motion for Default, with accompanying Declarations; and it further appearing that due notice of application and motion for judgment has

been made to the Defendants; and the Court having heard the matter, therefore makes and files the following findings of fact and conclusions of law constituting its decision in this action.

FINDINGS OF FACT

1. The allegations set forth in the United States' complaint are accepted as true.

2. There is now due and unpaid on the Note and Mortgage held by the United States as of July 31, 2019, the sums set forth in Attachment A.

3. The United States has incurred the following costs in this action: *See* Attachment A.

4. No proceedings have been had at law or otherwise for the recovery of the sum secured by said Note and Mortgage.

5. The leasehold mortgage premises are located at 725 Highway 47, Lac du Flambeau, Wisconsin, and are more particularly described as:

A parcel of land within Lots 10 and 11, Block 28, Town Plat in Government Lot 3, Section 8, Township 40 North, Range 5 East, 4th Principal Meridian, Wisconsin, more particularly described as commencing at the northeast corner of Lot 9, said Block 28, thence west on north line of said Block 28, a distance of 72 feet to the Point of Beginning; thence continuing west 40 feet; thence southerly to the southwest corner of said Lot 10, Block 28; thence east 50 feet along the lake shore of Long Lake, thence northerly to the Point of Beginning.

The area contains .2 acres, more or less, and is subject to any valid, existing rights-of-way. The area is to be used for the sole purpose of maintaining a private residence.

Tax Parcel: Exempt – Tribal Lands

6. The subject premises are abandoned, as that term is defined in Wis. Stat. § 846.102(1).

7. Notice of the pendency of this action was duly given on November 28, 2018, after the filing of the Complaint herein, by filing a Notice of Lis Pendens in the office of the Bureau of Indian Affairs, Land Titles and Records Office, Ashland, Wisconsin. This was done in the manner and form required by law, after the filing of the complaint herein, and more than twenty (20) days prior to the trial or other resolution of this action.

8. The Defendants have not served an Answer or other response and the Clerk of Court has duly entered the default of said Defendants.

CONCLUSIONS OF LAW

9. The United States is entitled to judgment of foreclosure and sale of the leasehold interest in the mortgaged premises in the usual form, as requested in United States' Complaint, and in accordance with the above Findings of Fact.

10. The United States is entitled to recover from the Defendants the following sum: *See Attachment A.*

11. The Defendants and all persons claiming under them subsequent to the filing of the notice of the pendency of this action be and hereby are forever barred and foreclosed of all right, title, interest, claim and equity of redemption in the mortgaged premises.

12. That if necessary to secure possession of the premises, the Clerk of Court, upon application by the United States, shall issue a Writ of Assistance.

13. The leasehold interest in the mortgaged premises shall be sold at public auction in the County of Vilas, State of Wisconsin, by or under the direction of the United States Marshal for the Western District of Wisconsin, five weeks or more after the entry of judgment, pursuant to Wis. Stat. § 846.102(3)(a)1. Such sale shall be made only to the Lac Du Flambeau Band of Lake Superior Chippewa Indians, an individual with the written consent of the Lac Du Flambeau Band of Lake Superior Chippewa Indians, or the Department of Housing and Urban Development.

14. Notice of sale shall be made by publication in the Vilas County News-Review, the newspaper published in the City of Eagle River, County of Vilas, State of Wisconsin.

15. Any such foreclosure sale will not affect the status of the property as being held by the United States in trust for the Tribe.

16. The proceeds from the sale of the leasehold mortgaged property shall be applied as follows:

- a) To the costs and expenses of the sale;
- b) To the payment of the costs and disbursements taxed in this action;
- c) In order of priority, toward the discharge of the debt adjudged to by the Court to be due; and
- d) To pay the surplus, if any, into the Court for any Defendant or other person entitled to the surplus, subject to the order of the Court.

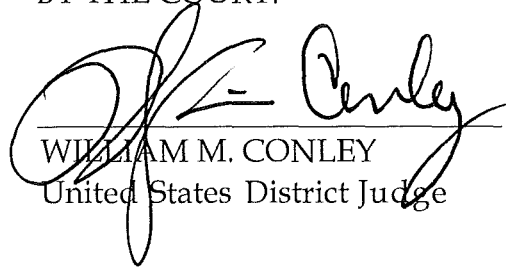
17. Deficiency judgment is not being sought in this action.

Now, on application of Plaintiff United States of America,

IT IS THEREFORE ORDERED that foreclosure of said leasehold interest in the mortgaged premises, in the usual form as provided by and in accordance with the above Findings of Fact and Conclusions of Law, be entered in this action.

Dated this 3/5 day of July, 2019.

BY THE COURT:



WILLIAM M. CONLEY
United States District Judge